CR 1801

IN THE HIGH COURT OF JUDICATURE CHHATTISGARH AT BILASPUR

W.P.NO. 4083 / 2004

Petitioner : Piyush Saha,
S/o Shri Sudheer Saha,
Aged about 49 years,
working as Pump Operator,
Municipal Council Kondagaon,
Dist : Bastar-(C.G.)

P.R. No. 4071/04 Presented by Shri Sanjay Bhagat dated 23/10/04

Versus

Respondents :

1. State of Chhattisgarh
Through The Secretary
Department of Urban Administration & Development, Mantralaya, Raipur-(C.G.)

2. The Dy.Director
Urban Administration and Development, Raipur, Dist : Raipur-(C.G.)

3. The Municipal Council Kondagoan
Through Chief Municipal Officer, Kondagaon, Dist : Bastar-(C.G.)

4. The President Municipal Council,
Kondagaon, Dist : Bastar-(C.G.)

WRIT PETITION U/A 226 / 227 OF THE CONSTITUTION OF INDIA

1. Particulars of the Petitioner.
As per cause title.

2. Particulars of the Respondents.
As per cause title.

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HIGH COURT OF CHHATTISGARH AT BILASPUR

SINGLE BENCH : HON'BLE SHRI SATISH K. AGNIHOTRI, J.

WRIT PETITION NO. 4082 OF 2004

Petitioner : Shailesh Bhatt

versus

Respondents : State of C.G. and others

WRIT PETITION NO. 4083 OF 2004

Petitioner : Piyush Saha

versus

Respondents : State of C.G. and others

WRIT PETITION NO. 4096 OF 2004

Petitioner : Motilal Patel

versus

Respondents : State of C.G. and others

Present : Mr. Prafull Bharat, counsel for the petitioners.
Mr. Arvind Dubey, learned Panel Lawyer for the State

ORAL ORDER
(Passed on 31st of July, 2006)

The present writ petitions, being Writ Petitions No.4082/2004, 4083/2004 and 4096/2004 involve common question of law as to regularisation of the

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services of the petitioners. Thus, these petitions are being disposed of by this common order.

The petitioners are daily wagers appointed on 14.12.1993, 20.03.1985 and 11.01.1999 on various posts by Municipal Council, Kondagaon. The petitioners in all the petitions seek regularization of their services and further alternatively grant of regular pay-scale.

The Hon'ble Supreme Court in the matter of **Secretary, State of Karnataka and others Vs. Umadevi (3) and others** reported in **(2006) 4 SCC 1** has clearly held that absorption, regularization, or permanent continuance of temporary, contractual, casual, daily-wage or ad hoc employees appointed/recruited and continued for long in public employment dehors the constitutional scheme of public employment create another mode of public employment which is not permissible. In the present case the petitioners are daily wagers and are not appointed in accordance with law and as per the constitutional scheme of the public employment. Thus they do not acquire any right for regularization or for grant of regular pay-scale. Further the Hon'ble Supreme Court in the matter of Secretary, State of Karnataka Vs. Umadevi and others (supra) in paragraph-53 directed as under:-

> **Para 53.** "The question of regularisation of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases abovereferred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularise as a one-time measure, the services of such *irregularly* appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of the courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within

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six months from this date. We also clarify that regularisation, if any already made, but not sub judice, need not be reopened based on this judgment, but there should be no further bypassing of the constitutional requirement and regularising or making permanent, those not duly appointed as per the constitutional scheme."

In view of the above stated directions of the Hon'ble Supreme Court, the respondents are directed to comply with the order of the Supreme Court as one-time measure in the cases of the petitioners. All these petitions are accordingly disposed of. No order as to costs.

A copy of this order be placed in the record of the two connected writ petitions.

Certified copy as per rules.

Sd/-
Satish K. Agnihotri
Judge

KHAN